

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF BILL GEHRIG)	APPEAL NO. 06-A-2473
from the decision of the Board of Equalization of)	FINAL DECISION
Payette County for tax year 2006.)	AND ORDER

RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing Monday, November 13, 2006, in Payette, Idaho, before Hearing Officer Steve Wallace. Board Members Lyle R. Cobbs and David E. Kinghorn and participated in this decision. Appellants Bill and Terri Gehrig appeared. Assessor Robert MacKenzie, Deputy Assessor Dorothy Davidson and Appraiser Darcy Maag appeared for Respondent Payette County. This appeal is taken from a decision of the Payette County Board of Equalization (BOE) denying the protest of the valuation for taxing purposes of property described as Parcel No. 06N03W198251.

The issue on appeal is the market value of a residential property.

The decision of the Payette County Board of Equalization is affirmed.

FINDINGS OF FACT

The total assessed land value is \$23,680. Appellant requests the land value be reduced to \$8,800.

The subject property is a one acre homesite situated on a 7.13 acre agricultural parcel located in Caldwell, Idaho.

Appellant claimed subject property was over-assessed and offered several reasons to support that position. The first point advocated by the Appellant was the subject's proximity to three dairies and a feedlot. Appellant contended that odor emanating from those properties had a negative impact on the value of subject land, which should have been considered in the assessment. Appellant also questioned the assessment of improvements made to subject.

Secondly, Appellant argued that a lack of easement has an adverse effect on land value.

Appellant stated that the easement for subject property was only granted to Appellant and one other individual, and as such, created a hindrance to future sale or transfer of subject. Appellant offered the following passage from an informational pamphlet regarding rural property ownership provided by Canyon County, "The fact that you can drive to your property does not necessarily guarantee that you have legal ingress/egress...You cannot assume that you have an automatic easement across someone else's property to enter your property.". Appellant noted that to access subject, one must cross the lands of six separate property owners.

Lastly, Appellant submitted assessments of six mobile home sites ranging from \$2,940 to \$11,030.

Respondent acknowledged there are many factors that affect land value, however, challenged the notion that odors from nearby properties are a significant factor. Respondent offered sales of two properties located near the same feedlot as subject. One property was assessed for \$173,170 and sold for \$228,000. The other was assessed for \$158,340 and sold for \$175,000.

Regarding the assessment of improvements made to subject land, Respondent stated those improvements included a well, a septic system, and a roadway built from subject to the main road to create easy access. The well was assessed for \$9,000, septic system for \$2,000, and roadway for \$1,500.

Respondent asserted the easement on subject property was fully transferrable and therefore did not adversely affect the assessed value. To support this position, Respondent referred to Idaho Code § 55-603, which in pertinent part states, "Easements pass with property. A transfer of real property passes all easements attached thereto, and creates in favor thereof an easement...in the same manner and to the same extent as such property was obviously and

permanently used by the person whose estate is transferred...". Respondent also provided previous ownership transfers of subject land that make specific reference to, and description of, the easement granted to subject.

In assessing subject, Respondent explained that subject was a Category 10 property, defined by the state as a home site situated on a farm. Respondent noted that farmland is not assessed the same as residential property. Specifically, agricultural land is assessed based on production, while residential land is based on market value. As such, Respondent asserted the one acre subject home site must be assessed at market value. Respondent said Category 10 properties in the area were assessed for \$37,500 for the 2006 tax year.

Respondent questioned the six assessments Appellant provided and claimed the assessments were for the mobile homes themselves, and do not include the underlying land. Respondent stated the land would be assessed to the owner of the land and home site, rather than the individual owner(s) of the mobile homes. Ownership of the land does not affect the value of the mobile home.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Assessments in the state of Idaho are to reflect market value as defined by Idaho Code § 63-201(1):

"Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an

informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Appellant asserted that odors emanating from nearby properties reduce the value of subject property.

Respondent argued that odors from nearby properties does not have a measurable negative impact on property value and provided sales of two properties near the same feedlot as subject to support that position.

Appellant also stated the easement for access from subject to the main road was granted solely to Appellant and one other person, and as such, would negatively impact land value if subject property was sold in the future.

Respondent contended that easements attach to the land upon which they are granted as stated in Idaho Code § 55-603. Respondent also provided past ownership transfer documents that refer to the easement grant for subject.

Finally, Appellant sought to use assessments of six mobile homes in the area as a basis for assessing subject land.

Respondent demonstrated the assessments included the mobile homes themselves, not the land upon which they were situated. Respondent explained the land assessment would include only the land and homesite.

There are many factors that may affect land value, but it was not shown in this case that odor from nearby properties has a measurable negative impact on value. Also, as correctly referenced in Idaho code, easements attach to the land rather than the owner, and are fully transferable to subsequent owners. In light of the evidence presented in this matter, the Board cannot find error in the assessment of subject property, and therefore affirms the decision of the

Payette County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Payette County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

DATED this 15th day of March , 2006.